



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

PRICE DANIEL  
ATTORNEY GENERAL

September 11, 1951

Hon. Wm. L. Taylor  
Prosecuting Attorney  
Harrison County  
Marshall, Texas

Opinion No. V-1277

Re: Maximum payments which  
may be made to County  
Commissioners of Har-  
rison County for trav-  
eling expenses.

Dear Sir:

You have requested an opinion on the fol-  
lowing question:

Are the provisions of Senate Bill  
131, Acts 52nd Leg., 1951, ch. 456, p.  
812, applicable to the county commis-  
sioners of Harrison County?

According to the 1950 Federal Census,  
Harrison County has a population of 47,745 inhabi-  
tants.

Senate Bill 131 of the 52nd Legislature  
provides in part:

"Sec. 2. In any county in this  
State having a population in excess  
of twenty-one thousand, five hundred  
(21,500) but not in excess of one hun-  
dred twenty-four thousand (124,000),  
according to the last preceding or any  
future Federal Census, the Commission-  
ers Court is hereby authorized to allow  
each member of the Commissioners Court  
the sum of not exceeding Seventy-five  
(\$75.00) Dollars per month for travel-  
ing expenses and depreciation on his  
automobile while on official business  
within the county. Each member of such  
Commissioners Court shall pay all ex-  
penses in the operation of such auto-  
mobile and keep same in repair free of  
any other charge to the county.

"Sec. 4. The provisions of this  
bill shall apply only to those counties  
not furnishing an automobile, truck or by

other means providing for the traveling expenses of its commissioners, while on official business within the county.

"Sec. 5. The fact that there is a great need that the county pay expenses of the Commissioners Court as provided for in this Act on account of the construction and maintenance of a great number of lateral roads, and the fact that no adequate provision is made by the existing law for reimbursement to said commissioners for any extra and added traveling expense which they are now required to incur in the performance of their official duties, creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended; and said Rule is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted." (Emphasis added.)

Section 10 of House Bill 812, Special Laws of the 42nd Leg., R.S. 1931, ch. 156, p. 303 (Harrison County Road Law), provides:

"Each County Commissioner and the County Judge of said county when travelling on county business relating to the roads or highways of said county shall be allowed the sum of Seven (7¢) Cents per mile as traveling expenses to be paid out of the Road and Bridge Fund on sworn statement at the end of each month; provided that the county shall not pay to the County Judge or any County Commissioner in excess of Fifty (\$50.00) Dollars as traveling expenses for any one month."

Section 1a of Article 2350, V.C.S., authorizes the commissioners' court in each county to pay the actual traveling expense incurred by the county commissioners while traveling outside the county on official business. The county commissioners in some counties are authorized traveling expense while

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traveling within the county. See Article 2350m, note, and various county road laws.

Since certain county commissioners were allowed traveling expense within the county while others were not, Senate Bill 131 was enacted for the benefit of those county commissioners who were not allowed traveling expense within the county. Section 4 of Senate Bill 131 shows clearly that it was the intention of the Legislature that its provisions would not apply to those counties in which traveling expense was already allowed within the county.

Traveling expense of the county commissioners of Harrison County within the county is now being provided for by the provisions of Section 10 of the Harrison County Road Law (H.B. 812, Special Laws of the 42nd Leg., R.S. 1931, ch. 156, p. 303). Therefore, it is our opinion that Senate Bill 131 of the 52nd Legislature is not applicable to Harrison County.

#### SUMMARY

Senate Bill 131, Acts 52nd Leg., 1951, ch. 456, p. 812, providing for payment of the travel expense of county commissioners traveling on official business within the county, is limited to counties where no provision now exists for such payments; this Act does not apply to Harrison County because its commissioners are now allowed such expense under the Harrison County Road Law.

APPROVED:

Yours very truly,

J. C. Davis, Jr.  
County Affairs Division

PRICE DANIEL  
Attorney General

Everett Hutchinson  
Executive Assistant

By *John Reeves*  
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JR:mw:awo